

### REMARKS

Favorable reconsideration of this application is respectfully requested.

With respect to the objection to claims 25 and 30, the formulas recited therein are believed to be proper and consistent with the specification, see for example the specification at paragraphs [0036], [0041], and [0250].

Claims 1-31 are pending in this application. Claims 1-2, 8-9, 15-16, and 20 were provisionally rejected on the ground of non-statutory obviousness-type double patenting as unpatentable over claims 1, 3-4, 6, and 8-9 of co-pending U.S. application serial no. 11/093,066 in view of U.S. patent application publication 2004/0105351 A1 to Ueki. Claims 1-7 and 21-25 were rejected under 35 U.S.C. § 112, second paragraph. Claims 20 and 31 were rejected under 35 U.S.C. § 101. Claims 1-31 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. patent 6,122,436 to Okada et al. (herein "Okada") in view of U.S. patent application publication 2004/0105351 A1 to Ueki. The above-noted rejections are traversed as now discussed.

Addressing first the outstanding double patenting rejection, the claims are herein amended to recite an additional feature not recited in the noted claims in the co-pending application and not suggested by Ueki, and specifically the claims now recite "and the allowable range of the intra-layer jump being 1/10-stroke, a full stroke being equivalent to a range from an innermost side to an outermost side of the recording medium, and the 40,000 sectors being greater than the 1/10-stroke". The claim amendments are believed to address the outstanding double patenting rejection.

Addressing now the rejection of claims 1-7 and 21-25 under 35 U.S.C. § 112, second paragraph, that rejection is traversed.

Each of independent claims 1 and 21 is herein amended to initially recite “a decoding unit”, to clarify the antecedent basis of that term. The amendments are believed to address the outstanding rejection under 35 U.S.C. § 112, second paragraph.

Addressing now the rejection of claims 20 and 31 under 35 U.S.C. § 101, that rejection is traversed.

Each of claims 20 and 31 is directed to a “computer readable medium including computer executable instructions”, which applicants submit is clearly statutory subject matter.

The outstanding rejection appears to be based on the position that the specification at paragraphs [0043] and [0267] disclose a communication medium such as a signal, carrier wave, etc.<sup>1</sup>

In reply to that grounds for the rejection applicants note for example at paragraph [0043] the specification clearly sets forth a recording medium is a medium such as a CD, an FD, and an MO, which are all clearly tangible recording mediums. Applicants also draw attention to the specification at paragraph [0266] that recites a removable recording medium such as a flexible disc, a CD-ROM, a Magneto Optical (MO) disc, a Digital Versatile Disc (DVD), a magnetic disc, and a semiconductor memory. Paragraph [0267] cited in the Office Action is not directed to such a recordable medium, but instead sets forth an alternative to the recordable medium. The first sentence of paragraph [0267] indicates “[i]n addition to the installation from the above removable recording medium into the computer, the program may be wirelessly transferred from a download site into the computer ...”. Applicants submit that disclosure makes it clear an alternative to the removable recording medium is a wireless download. Thereby, the recitation in the claims of a “computer readable medium” is believed

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<sup>1</sup> Office Action of October 29, 2009, middle of page 8.

to be clearly understood from the specification to not be a signal, carrier wave, etc. but instead a tangible recording medium, an item of manufacture.

Thereby, applicants submit claims 20 and 31 are proper under 35 U.S.C. § 101.

Addressing now the rejection of Claims 1-31 under 35 U.S.C. § 103(a) as unpatentable over Okada and Ueki, that rejection is also traversed, as now discussed.

Initially, applicants note the claims are herein amended to clarify features recited therein, and to particularly further recite:

the allowable range of the intra-layer jump being 1/10-stroke, a full stroke being equivalent to a range from an innermost side to an outermost side of the recording medium, and the 40,000 sectors being greater than the 1/10-stroke[.]

The above-noted features are believed to be clear from the original disclosure, see for example paragraphs [0089], [0090], and [0136]-[0138]. Applicants submit the claimed features clearly distinguish over the applied art.

The outstanding rejection relies on the primary reference to Okada to disclose an allowable range of an intra-layer jump particularly citing Figures 2A, 2B therein.<sup>2</sup> With respect to that grounds for the rejection applicants submit Okada does not even address the clarified claimed features of an intra-layer jump having an allowable jump range of “1/10-stroke, a full stroke being equivalent to a range from an innermost side to an outermost side of the recording medium”. Thereby, that amended claim feature clearly distinguishes over Okada.

The claims also further clarify the maximum allowable range of the intra-layer jump of no more than 40,000 sectors is “greater than the 1/10-stroke” of the intra-layer jump. Applicants submit that additional feature distinguishes over the applied art. Moreover, as

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<sup>2</sup> Office Action of October 29, 2009, page 9.

discussed further below Applicants submit even the feature of the “allowable range of the inter-layer jumping being no more than 40,000 sectors” distinguishes over the applied art.

With respect to the features of the inter-layer jump the outstanding Office Action cites Ueki, and particularly provides details in the “Response to Arguments” section as to how Ueki meets the claimed features of the “allowable range of the inter-layer jumping no more than 40,000 sectors”. The outstanding Office Action specifically appears to reference Ueki in Figure 9 and at paragraphs [0094], [0099,] [0100], and [0102] to meet such features.

Applicants traverse that grounds for rejection and note such cited disclosures in Ueki are not even related to setting an allowable range of an inter-layer jump, much less of no more than 40,000 sectors.

Applicants first note the cited disclosures in Ueki at paragraphs, [0094], [0100] and [0102] have no relation at all to inter-layer jump, but instead are directed to transfer rates between different memories. Similarly, Figure 9 in Ueki is directed the occupancy of different track buffer memory areas, and also has no relevance whatsoever to an inter-layer jump.

One further basis for maintaining the outstanding rejection appears to particularly emphasize that in paragraph [0099] Ueki discloses an allowable range of an inter-layer jump,<sup>3</sup> but applicants submit that basis is incorrect as cited paragraph [0099] in Ueki does not even address an *allowable range* or an inter-layer jump, but merely notes an inter-layer jump can be executed between layers L0,L1 , and Ueki provides details of that inter-layer jump in Figure 11.

Applicants submit Ueki with respect to the inter-layer jump Ueki clearly does not disclose or suggest the above-noted claimed features. Applicants respectfully submit clearly the citations in cited paragraph [0099] in Ueki only broadly disclose the capability of

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<sup>3</sup> Office Action of October 29, 2009 bottom of page 2.

performing an inter-layer jump, which is described in detail in Figure 11 of Ueki, but cited paragraph [0099] in Ueki does not even address the allowable range of sectors to be jumped. Applicants submit one of ordinary skill in the art would clearly look to the disclosure in Figure 11 of Ueki to disclose the specifics of the inter-layer jump particularly as noted above cited paragraph [0099] in Ueki does not provide any details of the inter-layer jump but just that the inter-layer jump can be executed.

That is, Ueki discloses an inter-layer jump for example in Figure 11, but the outstanding Office Action is improperly ignoring the express disclosures in Ueki in Figure 11 with respect to the inter-layer jump.

In further detail, Ueki in Figure 10 discloses an intra-layer 12 jump, but Ueki does not disclose or suggest with respect to that intra-layer jump in Figure 10 that “the allowable range of the intra-layer jump being 1/10 stroke, a full stroke being equivalent to a range from an innermost side to an outermost side of the recording medium”.

Further, in Figure 11 of Ueki discloses an inter-layer jump, but in that jump Ueki does not disclose “the allowable range of the inter-layer jump being no more than 40,000 sectors”, and Ueki further does not disclose or suggest the “40,000 sectors being greater than the 1/10-stroke”. The outstanding Office Action does not appear to be actually considering what Ueki discloses with respect to the inter-layer jump, and particularly in Ueki, as discussed further below, an inter-layer jump takes place from a first layer to a corresponding point in a second layer, and vice versa, and there is no jump of sectors in the inter-layer jump as shown in Figure 11 in Ueki.

In further detail, in Figure 11 and paragraph [0129] Ueki discloses making a jump from a recording layer L0 to another recording layer L1, and from that recording layer L1 back to the recording layer L0. As shown for example in Figure 11 Ueki discloses a first jump from layer L0 to layer L1 at a step S38 and a jump from layer L1 to layer L0 at a step

S45. However, Ueki does not disclose or suggest at any point determining an allowable range for that inter-layer jump. As graphically shown in Figure 11 Ueki discloses a jump from a point in layer L0 to a corresponding point in layer L1, and then from a point in layer L1 to a corresponding point in layer L0. Ueki does not appear or suggest in any way that an allowable range of such an inter-layer jump would be determined.

In fact Ueki discloses with respect to the jump at step S38 in cited paragraph [0129] “implement[ing] a focus jump from that position on the signal recording layer L0 to a position on the signal recording layer L1 at the starting edge of the optical disk second area 13b”. Similarly with respect to the jump at step S45 Ueki discloses controlling “the optical pickup 14 to implement a focus jump from that position on the signal recording layer L1 to a position on the signal recording layer L0 at the starting edge of the next first area 13a”. In such ways Ueki discloses specifying the portions where a jump can be made between the two layers L0 and L1. Such a structure in Ueki teaches away from the claimed features in which an allowable range for performing an inter-layer jump is determined.

Stated another way, Ueki predesignates specific points at which a jump from a layer L0 to a layer L1 and from the layer L1 to the layer L0 can be made, and thereby it is irrelevant in Ueki to determine an allowable range for such an inter-layer jump.

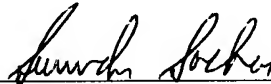
Thereby, Ueki does not disclose or suggest, and in fact teaches away from, the claimed features of the “inter-layer” jump, and in such ways Ueki cannot cure the recognized deficiencies in Okada.

In view of the foregoing comments applicants respectfully submit the claims as currently written positively recite features neither taught nor suggested by Okada in view of Ueki, and thus are allowable over that art.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

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